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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,047

07/24/2003

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112857-412

4039

29175 7590 04/17/2008
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EXAMINER

CHU, HELEN OK

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

04/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/628,047</p>	<p>Applicant(s) KATO ET AL.</p>	
	<p>Examiner Helen O. Chu</p>	<p>Art Unit 1795</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-9 and 11.
Claim(s) withdrawn from consideration: 4-8,12-16.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
The arguments filed by Applicants on 4/1/2008 are not persuasive.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/PATRICK RYAN/
Supervisory Patent Examiner, Art Unit 1795

Continuation of 13. Other: Please consider the following response. The Yoshino reference broadly teaches an electrode in which a binder such as latex can be applied to an electrode, the Yoshino reference specifically states "in the present invention, it is further preferred that at least one of the positive and negative electrode be in the form of a coating composition...comprise active material corresponding to the respective electrode and a binder" (Col. 4, Lines 19-30) while examples are drawn to an anode with latex binder, the invention as a whole is not limited to a latex binder to only an anode. The binder material can be applied to a cathode as well.

The Yoshino reference teaches limitations in that the list of binder materials include SBR and thickeners include polyacrylic acid whether the Yoshino reference list more than 45 materials and includes SBR as one or if there are 50 thickeners and list polyacrylic acid as one of the thickeners, this is sufficient prior art. The Yoshino does not have to teach specific Examples that of SBR and polyacrylic, it is sufficiently disclosed in the specification. Furthermore, the Yoshino reference states "Hereinbelow the present invention will be illustrated with reference to Examples, which, however, should not be construed as limiting the present examples" (Col. 12., Lines 43-50)

The units are not different at all. Even though it is stated differently pbw out of 100 pbw of another material is the same as wt% for example the Applicant claims 2wt% of 100wt% cathode active material which is 2pbw per 100pbw. Claims 3 and 11 are not incorporated into independent claim and therefore were not construed as such. The Table provided by the Applicant is incorrect and shows miscalculation the amounts of PAA has to be lower than the SBR as it is demonstrated by the Yoshino reference. Furthermore, Tables 1 and 2 in the Applicant's specification incorporate the Applicant's claimed ranges on both SBR and polyacrylic acid even when results show insufficiency and there is no way to know which specific amounts is required by the Applicant which satisfies these "unexpected results."